HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO. 2432 OF 2002

BETWEEN

Chowdavarapu Venkateshwarlu

.....**Petitioner**

And

The Union of India,
Rep. by its Ministry of Home Affairs,
Freedom Fighters Division,
New Delhi & another

.....**Respondents**

:: O R D E R::

Counsel for the Petitioner : Shri B. Venkata Madhav Reddy

Counsel for Respondent No.1 : Shri A. Rajasekhar Reddy, Assistant Solicitor General

Dated: 22.08.2006

This petition is one of several such cases, which have been instituted in different High Courts in the country with the prayer for grant of pension under the Swatantrata Sainik Samman Pension Scheme, 1980 (for short 'the 1980 Scheme') by fabricating the records.

The petitioner's husband late Shri Chowdavarapu Venkateshwarulu is said to have made application dated 08.12.1981 for grant of pension under the 1980 Scheme by claiming himself to be a freedom fighter, who had participated in Hyderabad Liberation Movement. After almost 20 years of the alleged making of application, he filed this petition for issue of a mandamus to the Government of India to pay him pension under the 1980 Scheme. In the affidavit filed by him, late Shri Chowdavarapu Venkateshwarlu averred that after processing his application, the Government of India had sanctioned pension in his favour vide order SZ/12/6/81/FF dated 06.08.1983, but the amount of pension was not released. Along with the writ petition, the petitioner annexed photostat copy of what has been described as enquiry slip which contains the following note:

> "Pension has already been sanctioned at the rate of Rs.300/- with effect from 01.08.1980. Order has been issued and received the P.P.O."

The above reproduced note has been signed by someone with the initial 'RS' with date 9-8-1983. The writ petition is also accompanied by copy of letter dated 04.09.1984 written by the Government of India, Ministry of Home Affairs to the petitioner requiring him to apply for grant of pension under the 1980 Scheme

and copy of letter dated 17.08.1991 written by Shri Venkata Subbaiah, the then Governor of Bihar and Karnataka supporting his cause for grant of pension.

In the counter-affidavit filed by Shri S.D. Kaushik, Under Secretary in the Ministry of Home Affairs, Government of India, it has been averred that no file bearing No. SZ/12/6/81 is available in the Ministry. Shri Kaushik has denied the petitioner's assertion regarding submission of application dated 08.12.1981. In para 16 of his affidavit, Shri S.D.Kaushik has averred as under:

> "**16. <u>Reply to the contentions in the petition</u>**
>
> a) **<u>Preliminary objection</u>:**
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> That the petitioner has claimed that he was sanctioned pension by the respondent ministry vide order dated 4-9-1981. He has claimed to have sanctioned w.e.f. 1-9-1980 vide the aforesaid order of the Ministry. The grievance of the petitioner is that the said sanction order could not be materialized because he has not received any payment so far. Even if the contention of the petitioner is right, it transpires that the petitioner has approached the Hon'ble High Court after a lapse of about 25 years from the date on which the sanction order was issued. He has also not given the reason for this considerable delay. This creates doubts regarding the genuineness and bona fide of the claim of the petitioner. The petition deserves to be dismissed on the ground of limitation alone.
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> b) That the petitioner has claimed that he has been sanctioned pension vide file No.SZ/12/6/91. The records of the respondent Ministry have been checked up. No such file No. is available in the Ministry. The file no. pertains to SZ Section, which is not dealing with the cases of Hyderabad Liberation Movement of Nalgonda Distt. Since the petitioner belongs to Nalgonda Distt., his case could not have been dealt by the SZ Section. Hence the file no./sanction order no. provided by the petitioner is doubtful.

c) In para 5 of the writ petition, the petitioner has claimed that he submitted his application on 8-10-1981. Simultaneously, he has claimed in para 18 of the writ petition that he was sanctioned pension vide No.SZ/12/6/81/FF dated **4-9-1981**. The contention of the petitioner is unbelievable and self-contradictory and the writ petition is liable to be dismissed on this ground.

d) That the petitioner has claimed underground suffering due to participation in the Hyderabad Liberation Movement. However, as submitted in para 6 above, underground suffering in Border camp were recognized as part of freedom struggle in June 1985. Therefore, he would not have been sanctioned pension on the basis of his claimed underground suffering on **4-9-1981**.

e) That it is submitted that as per the available records of the respondent Ministry, no previous application of the petitioner either submitted directly by him or forwarded by the State Government is pending with the respondent.

f) The claims made in the writ petition are wholly unsustainable and writ petition may be dismissed on this ground."

I had heard learned counsel for the parties. The petitioner's entitlement to get pension under the 1980 Scheme is primarily dependant on the Government of India's decision to treat those who participated in Hyderabad Liberation Movement launched against the Government of erstwhile Nizam. According to Sri A. Rajasekhar Reddy, learned Assistant Solicitor General, decision in this regard was taken by the Government of India sometime in 1983. He produced copy of office memorandum No.8/48/82-11 P.P. dated 05.10.1983 issued by the Government of India, Ministry of Home Affairs to show that decision to give pension under the 1980 Scheme to those who had participated in

Hyderabad Liberation Movement was taken for the first time in the month of October, 1983. He submitted that the documents produced by the petitioner showing that pension had been sanctioned in his favour in August, 1983 are fabricated because till then the Government of India had not recognized Hyderabad Liberation Movement for the purpose of grant of pension under the 1980 Scheme.

The copy of office memorandum produced by Shri Rajasekhar Reddy was shown to the counsel for the petitioner, who could not explain as to how late Shri Chowdavarapu Venkateshwarlu could make application in December, 1981 for grant of pension by being treated as a freedom fighter who had taken part in Hyderabad Liberation Movement. Learned counsel also could not produce any tangible evidence to show that the competent authority of the Government of India had sanctioned pension to late Sri Chowdavarapu Venkateswarlu in June 1983.

In view of the above, I am constrained to hold that the claim made by late Chowdavarapu Venkateshwarlu for grant of pension is based on fabricated documents and there is no question of issuing a writ of mandamus directing the respondents to pay arrears of pension to the petitioner in terms of the so-called sanction granted on 06.08.1983.

In the result, the writ petition is dismissed.

I would have saddled the petitioner with costs, but keeping in view the fact that she is only legal representative of late Shri Chowdavarapu Venkateshwarlu, I refrain from making such an order.

G.S.SINGHVI, CJ

ksld
22.08.2006